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**UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK**

<b>In re:</b>	<b>:</b>	<b>Chapter 11 Case No.</b>
	<b>:</b>	
<b>MOTORS LIQUIDATION COMPANY, et al.,</b>	<b>:</b>	<b>09-50026 (REG)</b>
<b>f/k/a General Motors Corp., et al.</b>	<b>:</b>	
	<b>:</b>	<b>RESPONSE TO DEBTORS'</b>
	<b>:</b>	<b>THIRTY-FIFTH OMNIBUS</b>
	<b>:</b>	<b>OBJECTION TO CLAIMS</b>
<b>Debtors.</b>	<b>:</b>	<b>(Claims with Insufficient</b>
	<b>:</b>	<b>Documentation)</b>

TO THE HONORABLE ROBERT E. GERBER,  
UNITED STATES BANKRUPTCY JUDGE:

On behalf of Claimants John and Nancy Mahoney, we respectfully submit this Response to Debtors' Thirty-Fifth Omnibus Objection to Claims as follows:

**Legal Basis for Claim**

Mr. and Mrs. Mahoney base their claim on the injuries they suffered due to the failure of their 2000 Cadillac Deville's airbag safety system. They suffered a severe side impact crash and airbags did not deploy. The vehicle was defective and unreasonably dangerous. The defective condition of the Cadillac helped produce injury that would not have happened if the Cadillac had a properly functioning airbag system.

Side airbags protect the head and body in severe crashes. They are touted by GM as a mechanism that saves lives and prevents severe head and body injuries. Over the years, GM has also had to issue multiple recalls regarding the failures of their side airbags and sensors. In fact, it appears in October 2000, GM recalled 224,000 Cadillac Deville sedans to replace faulty side impact modules that were causing failure of side airbags. It appears the NHTSA

investigated the defect. Unfortunately, it appears GM did not include the Mahoney's vehicle in the recall.

#### Factual Basis of Claim

On March 11, 2008, at approximately 11:00 a.m., John and Nancy Mahoney were gravely injured in a motor vehicle crash. The crash happened at the intersection of Speedway Boulevard and Camino Seco Road in Tucson, Arizona. Mr. and Mrs. Mahoney were traveling in a General Motors 2000 Cadillac Deville sedan. They were northbound in the right hand lane of North Camino Seco Road. Mr. Mahoney was driving and Mrs. Mahoney was in the passenger seat. They proceeded into the intersection on a green light.

The at-fault driver ran the red light going eastbound on Speedway Boulevard, smashing into the Mahoney's driver's side door. The driver's side door was smashed inward and it took some time to extricate Mr. Mahoney. Side airbags did not deploy.

Mr. and Mrs. Mahoney were transported by ambulance to University Medical Center Tucson.

#### John Mahoney's Injuries

##### University Medical Center, Tucson

Upon arrival at the hospital, Mr. Mahoney was diagnosed with a hemopneumothorax, pulmonary contusions, traumatic brain injury, multiple left-sided rib fractures, multiple contusions and abrasions, distal lateral displacement of the right ankle, and fractures of his right tibia.

The examining physician noted that Mr. Mahoney was a 78 year-old, restrained driver, positive for loss of consciousness, with a Glassgow coma score of 15. Mr. Mahoney's primary complaints were of left chest pain and right knee pain. There was dried blood on Mr. Mahoney's forehead, along with multiple abrasions on his mid-forehead at approximately one by two centimeters.

Mr. Mahoney was tender with pain to palpation over the general interior and lateral chest wall on the left. He had difficulty breathing. There was erythema and noticeable

bruising and clear pain in the left anterior lateral chest wall to palpation. The emergency room physician was unable to measure Mr. Mahoney's gait because of a distal lateral displacement of his lower extremity relative to his knee joint. There thus was a probable right knee joint injury or tibial fracture.

A chest x-ray revealed multiple left-sided rib fractures with a large hemothorax, as well as a pneumomediastinum injury with an AC joint separation. A CT of the head and neck revealed what appeared to be a left mandibular condyle subluxation. An x-ray of the right knee showed a right lateral tibial plateau fracture, comminuted, along with a fibular head fracture.

Mr. Mahoney was diagnosed with a closed head injury, multiple contusions and abrasions, a hemopneumothorax with placement of a chest tube, a right tibial plateau fracture, a closed right fibular head fracture, pulmonary contusions, and an appearance of a chronic subluxation of a left mandibular condyle. He was also noted to have a left AC joint separation. He was admitted to the hospital, where he remained for 6 days. While in the hospital, Mr. Mahoney also suffered a heart attack that has left him pacemaker dependent. Mr. Mahoney was also later found to have broken teeth from the crash. After multiple surgical procedures, Mr. Mahoney was discharged from the hospital for rehabilitation on March 21, 2008. He was transported by ambulance to HealthSouth Rehabilitation Institute.

#### HealthSouth Rehabilitation Institute of Tucson

Upon presenting to HealthSouth, a review of symptoms revealed numbness in Mr. Mahoney's right hand, in the thumb and index finger, which was new since the accident. A physical examination revealed post-traumatic amnesia. The left upper extremity was notable for ecchymosis above the left AC joint. Mr. Mahoney had limited range of motion. His left arm was generally swollen significantly greater than on the right. The right hand was working well but had decreased sensation in the median nerve distribution in the right hand fingers and thumb. Due to his right tibial plateau fracture, Mr. Mahoney was non-weight bearing. There was mild weakness noted in the hip because of chest wall pain on that side. The admitting physician

indicated Mr. Mahoney would need a speech pathology consult, physical therapy, and occupational therapy.

Mr. Mahoney also received deep vein thrombosis prophylaxis, monitoring of blood loss and anemia, and aggressive pulmonary therapy to avoid atelectasis and pneumonia. Mr. Mahoney received medical management and many other rehabilitation services through HealthSouth for the next several weeks. He was discharged on April 22, 2008, nearly two months after the crash.

### **Tucson Medical Center**

While in rehabilitation, on March 25, 2008, Mr. Mahoney was transported to Tucson Medical Center after developing new and different chest pain. He submitted to an evaluation to rule out a pulmonary embolus and myocardial infarction. Although the medical records from Tucson Medical Center are pending arrival, we know that Mr. Mahoney was treated for a bilateral small pulmonary embolism. He was treated with oxygen as well as anticoagulation with Lovenex and Coumadin. He was released after several days and brought back to HealthSouth.

### **Summary**

In summary, Mr. Mahoney suffered blunt force trauma to his head, broken teeth, broken ribs, a cracked sternum, a fractured collar bone, a collapsed lung, a fractured tibia, pulmonary emboli, and a heart attack resulting in placement of a permanent pacemaker. He has suffered permanent impairment from the collision. Because of an AC separation of the left shoulder, Mr. Mahoney has a noticeable disfigurement and functional disability. Mr. Mahoney will also be on a Coumadin regiment for the rest of his life, and, as such, will be at high risk for complications if he falls. He continues to suffer a significant loss of cognitive skills and memory loss. He also has speech difficulty, along with a loss of clear thought and word finding ability. He describes it as everything feeling "dull." It appears Mr. Mahoney's traumatic brain injury has left him with permanent deficits. Mr. Mahoney's broken teeth required extensive dental repair.

Nancy Mahoney's Injuries

University Medical Center

Upon admittance, Mrs. Mahoney was found to be positive for loss of consciousness and had no memory of the event. She reported a level 8/10 for left hip pain, worse with movement. She was not ambulatory at the scene. She had sustained a serious head injury.

A series of x-rays were taken. The chest x-ray revealed numerous left sided rib fractures. Pelvic films demonstrated left superior and inferior, pubic rami fractures with chronic appearing avulsion type injury to the left interior superior iliac spine. Chest abdomen and pelvis CT revealed anterior left third to fifth rib fractures and left chest wall contusion. The superior inferior rami fractures were also noted. She was discharged and transferred to HealthSouth for continued rehabilitation.

HealthSouth Rehabilitation Institute of Tucson

Upon being transferred to HealthSouth for rehabilitation, an examination confirmed fractures of Mrs. Mahoney's pelvis and multiple ribs, as well as a demonstrated a loss of consciousness. Mrs. Mahoney was evaluated by physical therapy, occupational therapy, and speech therapy, and additionally, she underwent deep vein thrombosis prophylaxis with aggressive early remobilization.

On March 19, 2008, Mrs. Mahoney underwent a neuropsychological evaluation relative to the closed head injury she sustained in the collision. Mrs. Mahoney was diagnosed with a traumatic brain injury and cognitive disorder.

Mrs. Mahoney was discharged on March 28, 2008, to continue physical therapy, occupational therapy, and pool therapy. Mrs. Mahoney continues to struggle with her balance. If she closes her eyes while standing, she falls down.

Nancy and John Mahoney's Medical Specials

John Mahoney

University Medical Center.....	\$ 88,431.49
HealthSouth.....	<u>\$ 47,097.13</u>
<b>Total.....</b>	<b><u>\$135,528.62</u></b>

Nancy Mahoney

University Medical Center.....	\$34,564.00
HealthSouth.....	<u>\$12,784.44</u>
<b>Total.....</b>	<b><u>\$47,348.44</u></b>

Additional billings and records from Mr. and Mrs. Mahoney's follow-up treatment have not yet been received.

Conclusion

The Mahoneys have authorized our firm to assert a claim for damages in the amount of \$1,000,000.00. Exhibits supporting their claim are enclosed with an Index. Requests for additional records are still pending.

DATED this 29th day of July, 2010

HARRIS, POWERS & CUNNINGHAM, P.L.L.C.

By /s/ Frank I. Powers

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ORIGINAL of the foregoing e-filed this 29th day  
of July, 2010, in the United States Bankruptcy Court,  
Southern District of New York,

With a copy hand-delivered this same date to:

The Honorable Robert E. Gerber  
United States Bankruptcy Judge  
United States Bankruptcy Court for the  
Southern District of New York  
One Bowling Green, Room 621  
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By /s/ Patti Lesser

Motors Liquidation Company, *et al.*  
Chapter 11 Case No. 09-50026

## Index of Exhibits \*

Exhibit A Tucson Police Department Accident and Supplemental Reports dated March 11, 2008.

Exhibit B Tucson Police Department Accident Scene Photographs taken March 11, 2008.

Exhibit C Crash Data Retrieval File Information dated June 6, 2008.

Exhibit D Mike Shepson Vehicle Inspection Photographs (Mahoney Vehicle) dated June 5, 2008.

Exhibit E Mike Shepson Vehicle Inspection Photographs (At Fault Vehicle) dated June 5, 2008.

Exhibit F Mike Shepson Vehicle Inspection Photographs (Accident Location) dated June 5, 2008.

Exhibit G Interstate Investigative Services Report and Photographs dated February 26, 2010.

Exhibit H Complaint - C20101914, ***Mahoney v. Coulter Cadillac, et al.***, filed March 11, 2010.

Exhibit I Certificate on Compulsory Arbitration - C20101914, ***Mahoney v. Coulter Cadillac, et al.***, filed March 11, 2010.

Exhibit J *1999 Cadillac Deville Recalls, Defects, and Problems*, printed from [www.autobuyguide.com](http://www.autobuyguide.com).

Exhibit K *Cadillac Recall News*, printed from [www.crash-worthiness.com](http://www.crash-worthiness.com).

Exhibit L John Mahoney Medical Records.

Exhibit M Nancy Mahoney Medical Records.

\* Exhibits are too voluminous to be uploaded and filed electronically as attachments to Claimants' Response. Individual CDs containing all exhibits have been mailed to all parties this same day, July 29, 2010.